

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL
:
v. :
:
ADOLPH PRINCIPALE : NO. 98-581-3

MEMORANDUM AND ORDER

NORMA L. SHAPIRO, J.

NOVEMBER 25, 1998

AND NOW, this 25th day of November, 1998, after an evidentiary hearing and argument from counsel for the government and the defendant, it appearing that:

1. Defendant, Adolph Principale, is one of seven co-defendants in a 19 count Indictment charging drug offenses, money laundering and claiming criminal forfeiture. This defendant is charged in Count 1, conspiracy to manufacture and distribute methamphetamine, 21 U.S.C. 841, and in Count 9, possession of a listed chemical with intent to manufacture, 21 U.S.C. 841 (d)(1)

2. Pretrial Services reported:

The defendant has resided in Philadelphia for most of his life and he has strong family ties to the area. He does not possess a passport and he does not regularly travel outside of the country. He has a history of employment. However, the defendant faces severe penalties if convicted. For this reason he poses a risk of flight.

Mr. Principale has no history of psychiatric treatment and he has not used drugs in twelve years. However, the defendant has one prior federal conviction for narcotics and the alleged offense involves illegal substances. He poses a danger to the community.

Magistrate Judge Smith released defendant Principale on \$450,000 bail, secured by deeds on 5832 Keystone Street, Philadelphia and 9510 Torresdale Avenue, Philadelphia (\$150,000) and a bail bond co-signed by defendant Principale and his father-in-law, William E. Clarke, secured by Mr. Clarke's property at 2421 Boyd Road, Huntingdon Valley, Pennsylvania (\$300,000), in addition to electronic monitoring with pretrial reporting several

times a week.

The government has appealed and asked the court to find:

(a) the government has proven by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required; and

(b) that the government has proven by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons and the community, as required by 18 U.S.C. § 3142(e).

Defense counsel concedes there is probable cause to believe that the defendant has committed a violation of 21 U.S.C. § 846, involving a conspiracy to manufacture and distribute more than 1 kilogram of methamphetamine, a Schedule II controlled substance and possession of listed chemical (methylanine) with intent to manufacture methamphetamine, as set forth in the Indictment, Criminal No., 98-581, returned by a federal grand jury on November 18, 1998.

The Indictment lists 94 overt acts, but only 5 implicate defendant Principale. The facts alleged in the Indictment consist of conversations by the principal defendant with confidential informants in which he identified defendant Principale as his source of a cutting substance for methamphetamine and admitted that he owed defendant Principale money. The government has evidence from at least two cooperating witnesses. One will testify to the statement of defendant, Thomas Zaroff, Sr., concerning defendant Principale; the other will testify that he delivered methylanine to be used in the manufacture of methamphetamine to defendant Principale for \$15,000.00. Defense counsel asserts that the defendant will vigorously defend these accusations and has a very substantial defense.

If convicted, defendant Principale has a substantial incentive to flee, but has strong ties to this jurisdiction. He has resided his entire lifetime in Philadelphia. He has a young wife who is afflicted with cancer and facing surgery. He also has an infant son. At the hearing before the Magistrate Judge and again at the hearing before this court, numerous members of his family appeared on his behalf, as did the family priest.

Defendant Principale's father-in-law, William E.

Clarke, a retired policeman with a drug enforcement background, testified on behalf of the pretrial release of defendant Principale. He lost a brother from a drug overdose and hates drugs and their effects on people and the community. He loves his daughter deeply and is willing to post everything he owns as security for the defendant Principale. Mr. Clarke is a businessman of substance with two car dealerships and a house worth approximately \$300,000. He made clear to the court that he would personally supervise defendant Principale in his daily activities and assure his appearance in court.

The government contends there is probable cause to believe that the defendant committed an offense punishable under the Controlled Substance Act by 20 years in prison, and that there is a rebuttable presumption no condition of release, or combination of conditions, will reasonably assure the appearance of the defendant and the safety of the community. The defendant has rebutted this presumption.

The court is convinced there is no risk of flight, not just because of defendant's ties to the community, but because of the concern of defendant Principale's father-in-law for the safety and welfare of his son-in-law, as well as his daughter.

There is no threat to the safety of the community because of the assurance defendant Principale has a job working 8-10 hours a day, six days a week, at the car dealership where he would be under Mr. Clarke's personal supervision. In addition, defendant Principale would be on house arrest with electronic monitoring (with work release privileges as stated) and would report to Pretrial Services once a week in person and once a week by telephone. Although Magistrate Judge Smith would have permitted him to travel outside the district for business reasons, the court sees no reason for this and would restrict his work privileges to Mr. Clarke's auto dealership only. No communication or association with co-defendants or drug offenders will be permitted.

To be assured itself that the position of the government was given every consideration, in addition to the testimony in open court, the court reviewed intercepted conversations concerning defendant Principale in camera. The government has asked that neither the tapes nor transcript be provided to defendant's counsel. In view of the disposition of the government's motion, there is no need to make these conversations available to the defendant.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	: CIVIL ACTION
	:
v.	:
	:
ADOLPH PRINCIPALE	: No. 98-581-03

ORDER

AND NOW, this 25th day of November, 1998, following a Pretrial Detention Hearing yesterday, it is hereby **ORDERED** that the Government's Motion for Pretrial Detention is **DENIED**.

Bail is set in the amount of \$450,000.00: \$150,000.00 secured by the properties at 5832 Keystone Street, Philadelphia Pennsylvania and 9510 Torresdale Avenue, Philadelphia, Pennsylvania, and the remaining \$300,000 an O/R bond signed by the defendant and his father-in-law, William E. Clarke, and secured by the property at 2421 Boyd Road, Huntingdon Valley, Pennsylvania, with the following conditions:

1. Forfeiture agreement to be executed for properties;
2. Electronic monitoring with in-home detention except for employment purposes -- defendant shall be employed at least eight hours a day, six days a week at the automobile dealership of his father-in-law, William E. Clarke -- and may attend his wife's surgery and visit her in the hospital with prior notice to Pretrial Services Agency;
3. Defendant shall:
 - a. Report to Pretrial Services Agency as directed once a week in person and once a week by telephone;
 - b. Restrict travel to the Eastern District of Pennsylvania;
 - c. Surrender passport and not apply for passport;
 - d. Surrender weapons and not possess weapons; and
 - e. Neither communicate nor associate with any co-defendant or person previously convicted of a felony or drug offense.

